IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.31335 of 2008
UMA SHANKAR RAM
Versus
STATE OF BIHAR THRU.INVE.B.VIG
With
Cr.Misc. No.32827 of 2008
RAMAWATAR SINGH & ORS
Versus
STATE OF BIHAR THRU.VIG.
With
Cr.Misc. No.31821 of 2008
DAYANAND JHA
Versus
THE STATE OF BIHAR
With
Cr.Misc. No.33773 of 2008
SANJAY KUMAR SINGH
Versus
STATE OF BIHAR THRU.VIGILANCE
With
Cr.Misc. No.34511 of 2008
BRAJ NANDAN SINGH
Versus
STATE OF BIHAR THRU.VIG.

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2. 19.8.2008 Heard.

The batch of five petitions arise out of Vigilance P.S.Case no.33 of 2008 which is under various Sections of the IPC like 468, 409, 120(B) etc IPC and Section 13(2)read with 13(1)(c)(d)of the Prevention of Corruption Act as also under Sections 4/10 of the Bihar Examination Conduct Act, 1981. The petitioners Uma Shankar Ram and Braj Nandan Singh were the Directors of the Centre of evaluation whereas petitioner Dayanand Jha was one of the members of the Board of Directors appointed for over seeing and conducting the evaluation work of the answer sheets of 2006-2007 Examinations of

Madhyama conducted by the Sanskrit Shiksha Board, Patna. Out of the other petitioners, petitioner Sanjay Kumar Singh, Ramawatar Singh, Swaminath Rai, Jawahar Singh and Laxmikant Prasasd were the coordinators appointed to assist the Director of the Centre as also to get clean evaluation of answer sheets.

As per the allegations they indulged in huge number of irregularities and illegalities so as to benefiting themselves. Some of the instances as appearing in the gist of the allegations which have been stated at the end of the bulky information report, are that the Directors along with Coordinators, firstly, recruited inefficient, ineligible and much-below-the-required-standard-of merits-persons as evaluators for under taking the evaluation work. To be specific, the recruitment was of 51 such persons. The other part of the allegation was that the merit of the meritorious students was undermined by giving poor marks to them in their answer sheets. Those who were lacking in merit, their marks was bolstered up illegally and against the merit of the answer. The third allegation is that by making illegal recruitment or nominations of the evaluators huge amounts towards T.A and D.A and

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other entitlements were shown to be paid to them and that was done under conspiracy of the petitioners so as to financially benefiting themselves.

Contentions have been raised by the senior counsels Sri T.K.Jha, Sri J.P.Shukla, and Smt. Anjana Prakash and Sri N.K.Agrawal appearing for the petitioners in each of the petitions; and while so submitting, Sri Jha learned counsel appearing for petitioner Uma Shankar Rai firstly contended that when the FIR has been instituted also under the Bihar Conduct of Examinations Act probably the Vigilance Department was uncertain about the Sections of the P.C.Act and the I.P.C and inserted them probably to give a graver look to the case. It was further contended that there is no specific allegation as to which of the petitioners indulged in what acts and how each of them could be responsible either for lessening marks or increasing them when it comes to giving marks in the answer sheets. It was further contended that there is no specific allegations as to what was the quantum of financial irregularity individually against any of the petitioners and how and to what extent they benefited themselves. Sri Jha contended that might be that

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there could be some cases of undermining the merits of the particular candidate, but for that the Director of the Centre or the Coordinator or the petitioners could not be held personally responsible. It could be the act of evaluators and no one could be held responsible for it.

Sri N.K.Agrawal, learned counsel appearing for yet another Centre Director of Evaluation Centre of Millar High School adopted the arguments submitted by Sri Jha as well as by Smt Anjana Prakash in the case of petitioner Ramawatar Singh and others. Smt Prakash contended that the petitioners of Misc.Petition no.32827 of 2008 were not named in the FIR and they are not supposed to over see the evaluation work rather they were only supposed to supply 30 to 60 copies of each of the evaluators for evaluation after opening the bundle of copies and to collect the same after the evaluation work was over. It was submitted that allegation appearing at- *'Ka'* could at best be directed to petitioners of the above noted Cr.Misc.Petition and that is also not specifically made against any of the petitioners.

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Sri B.K.Sinha appearing for petitioner Sanjay Kumar Singh has addressed his arguments on the similar lines as was done by Smt.

Prakash and submitted that the instructions for a Co-ordinator appearing at page 40 of the petition could very well indicate that the petitioner could not have in any manner influenced the evaluation of answer sheets.

The learned counsel appearing for the Vigilance Department has taken me through some part of the FIR specially to Annexure-5 at page 37 and has read out paragraph 3 of the page to point out that the investigation and enquiry conducted prior to the filing of the FIR indicated that the petitioners were quite deeply involved in the conspiracy of appointing incompetent and ineligible and also showed such appointments of non-existent persons for illegally withdrawing T.A and D.A and this caused financial loss to the Board and gain to themselves. He also contended that the petitioners were not acting properly and as per the guidelines and were deeply involved in influencing the illegal making on answer sheets as also drawing illegal benefits. It was contended that if the petitioners were released on bail it may be possible that they tampered with the official record as also that they may not be available to the courts for trial.

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I was taken through the relevant parts

of the FIR and I find that the allegations appear in general form. When one was talking about the financial irregularity or a specific act of forgery or misconduct as regarded the conduct of the evaluation then one has to be very specific as to what was role of the individual accused persons. The court feels difficulty in disapproving of the contention of the petitioners in the five petitions.

Under the facts of the case and in the light of the material as also in the light of the submissions, let the petitioners, namely, Uma Shankar Ram, Ramawatar Singh, Swaminath Rai, Jawahar Singh, Laxmikant Prasad, Dayanand Jha, Sanjay Kumar Singh and Braj Nandan Singh be released from custody on furnishing bonds of Rs.10,000/-(ten thousand)each with two sureties of the like amount each to the satisfaction of **Special Judge, Vigilance-I, Patna in Vigilance P.S.Case no.33 of 2008(Spl. Case No.24 of 2008).**

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(Dharnidhar Jha, J.)

B.Kr.